

Ordinance No. 24-05

ORDINANCE: To Grant Text Amendment Application No.  
TXT2003-00202, as amended, Mayor and Council  
of Rockville, Applicant

WHEREAS, the Mayor and Council of Rockville, 111 Maryland Avenue, Rockville, Maryland 20850, filed Text Amendment Application TXT2003-00202, for the purpose of requiring adequate public facilities for new development and redevelopment; and

WHEREAS, the Planning Commission reviewed the proposed text amendment application at its December 10, 2003, meeting and provided recommendations to the Mayor and Council as set forth in a memorandum dated December, 11, 2003; and

WHEREAS, pursuant to Article 66B of the Annotated Code of Maryland, the Mayor and Council of Rockville gave notice that a hearing on said application would be held by the Mayor and Council in the Council Chambers at Rockville City Hall on December 15, 2003, at 7:30 p.m. or as soon thereafter as it may be heard; and

WHEREAS, on December 15, 2003, said public hearing was deferred to an unspecified later date; and

WHEREAS, a worksession was held on the proposed application on September 12, 2005, at which the Mayor and Council requested that the proposed text amendment be modified; and

WHEREAS, pursuant to Article 66B of the Annotated Code of Maryland, the Mayor and Council of Rockville gave notice that a hearing on the amended application would be held by the Mayor and Council in the Council Chambers at Rockville City Hall on October 10, 2005, at 7:00 p.m. or as soon thereafter as it may be heard; and

WHEREAS, on October 10, 2005, said amended application came on for hearing at the time and place provided for in said advertisement; and

WHEREAS, the Mayor and Council having considered the text amendment application, and the entire file pertaining thereto, said Mayor and Council having decided that the granting of this application, as amended, in the form set forth below would promote the health, safety and welfare of the citizens of the City of Rockville.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND, that Text Amendment Application No. TXT2003-00202 be, and the same is hereby, granted, as amended, as follows:

SECTION 1. That Chapter 25 of the Rockville City Code entitled “Zoning and Planning,” Section 25-193 entitled “Issuance, term, etc.” be amended to read as follows:

## **ARTICLE V. PERMITS**

### **DIVISION 2. USE PERMIT**

\* \* \*

#### **Sec. 25-193. Issuance; term, etc.**

- (a) A use permit shall be issued if the Planning Commission, the Mayor and Council, or the Chief of Planning, as the case may be finds that the use proposed in the application will not:
  - (1) Affect adversely the health or safety of persons residing or working in the neighborhood of the proposed use;
  - (2) Be detrimental to the public welfare or injurious to property or improvements in the neighborhood; or
  - (3) Overburden existing and programmed public facilities as set forth in Article XVI of this Chapter and as provided in the adopted Adequate Public Facilities Standards; or
- [3] (4) Constitute a violation of any provision of this Code or other applicable law.

\* \* \*

SECTION 2. That Chapter 25 of the Rockville City Code entitled “Zoning and Planning,” Section 25-326, “Special development standards for multifamily dwelling in the O-1 Zone” and Section 25-327, “Retail store size limitations and design and site development guidelines for retail stores and shopping centers in the C-2 and RPC Zones” be amended to read as follows:

## **ARTICLE VII. ZONING DISTRICT REGULATIONS**

### **DIVISION 3. DEVELOPMENT STANDARDS**

#### **Sec. 25-326. Special development standards for multifamily dwelling in the O-1 Zone.**

(a) \* \* \*

(b) *Optional method of development.* \* \* \*

(1) \* \* \*

(2) \* \* \*

(3) \* \* \*

(4) \* \* \*

(5) \* \* \*

(6) \* \* \*

(7) \* \* \*

(8) The application shall prepare and submit a traffic impact study in conformance with the [Standard Traffic Methodology, as may be updated from time to time] Comprehensive Transportation Review, or its successor, and shall provide mitigation of those traffic impacts which result in unsatisfactory levels of service [as defined by the Standard Traffic Methodology. The mitigation measures shall be subject to review and approval by the Planning Commission].

(9) \* \* \*

(c) \* \* \*

(d) \* \* \*

(e) \* \* \*

(f) *Required findings of Mayor and Council on Preliminary Development Plan..* \* \* \*

(1) \* \* \*

(2) \* \* \*

(3) \* \* \*

(4) That the proposed development will not overburden existing and programmed public services, including water, sanitary sewer, public roads, schools, storm drainage and other public improvements and adequate public facilities as set forth in Article XVI of this Chapter and as provided in the adopted Adequate Public Facilities Standards; and

\* \* \*

**Sec. 25-332. Retail store size limitations and design and site development guidelines for retail stores and shopping centers in the C-2 and RPC Zones.**

\* \* \*

(b) *Design and site development guidelines for certain developments in the RPC and C-2 Zones.* \* \* \*

(1) \* \* \*

(2) *Site design and relationship to surrounding community.*

- a. \* \* \*
- b. \* \* \*
- c. \* \* \*
- d. \* \* \*
- e. \* \* \*
- f. \* \* \*
- g. \* \* \*
- h. \* \* \*

i. *Traffic impacts.* The applicant shall have a [traffic] transportation impact study prepared according to the [Standard Traffic Methodology] Comprehensive Transportation Review or its successor. [In addition to the general standards of the methodology, t] The [traffic] transportation impact study shall include weekend traffic generation and impact analysis. The [traffic] transportation impact study shall also study intersections within an area designated by the Chief Transportation Engineer to take into account the regional traffic draw of a large-scale retail establishment.

\* \* \*

SECTION 3. That Chapter 25 of the Rockville City Code entitled “Zoning and Planning,” Section 25-338 entitled “Standards for Granting” be amended to read as follows:

## **ARTICLE VIII. SPECIAL EXCEPTIONS**

### **DIVISION 1. GENERALLY**

\* \* \*

#### **Sec. 25-338. Standards for granting.**

The Board of Appeals [shall] must not grant any petition for a special exception unless it finds from a preponderance of the evidence of record that:

- (1) The proposed use does not violate or adversely affect the Plan, this chapter or any other applicable law; and
- (2) The proposed use at the location selected will not:
  - a. Adversely affect the health and safety of residents or workers in the area; or
  - b. Overburden existing and programmed public [services] facilities as provided in Article XVI of this Chapter and as provided in the adopted Adequate Public Facilities Standards; or  
[., including water, sanitary sewer, public roads]
  - c. Overburden existing and programmed storm drainage and other public improvements; or
  - [c.] d. Be detrimental to the use or development of adjacent properties or the neighborhood; or
  - [d.] e. Change the character of the neighborhood in which the use is proposed considering service currently required, population density, character, and number of similar uses; and
- (3) The proposed use complies with any requirements of this chapter that are applicable thereto.

SECTION 4. That Chapter 25 of the Rockville City Code entitled “Zoning and Planning,” Article XII entitled “Special Development Procedures” be amended as follows:

## **ARTICLE XII. SPECIAL DEVELOPMENT PROCEDURES**

### **DIVISION 1. GENERALLY**

\* \* \*

**Sec. 25-492. Adequate public facilities.**

All development proposed under the provisions of this Article must demonstrate that there are adequate public facilities available in accordance with Article XVI of this Chapter and as provided in the Adequate Public Facilities Standards to accommodate the proposed development.

**DIVISION 2. VARIABLE LOT SIZE DEVELOPMENT**

\* \* \*

**Sec. 25-510. Criteria for approval.**

The application shall be granted for a variable lot size development if the Planning Commission finds that the proposed development will not:

- (1) \* \* \*
- (2) \* \* \*

(3) Overburden existing and programmed public facilities as set forth in Article XVI of this Chapter and as provided in the adopted Adequate Public Facilities Standards;  
or

- [3] (4) Be inconsistent with the intent or purpose of this article.

**DIVISION 3. CLUSTER DEVELOPMENT**

\* \* \*

**Sec. 25-531. Criteria for granting.**

The application for cluster development shall be granted if the Planning Commission finds that the proposed development will not:

- (1) \* \* \*
- (2) \* \* \*
- (3) \* \* \*

(4) Overburden existing and programmed public facilities as set forth in Article XVI of this Chapter and as provided in the adopted Adequate Public Facilities Standards;  
or

[4] (5) Be inconsistent with the intent or purpose of this article.

#### **DIVISION 4. PLANNED RESIDENTIAL UNIT DEVELOPMENT**

\* \* \*

##### **Sec. 25-562. Required findings of Council on exploratory application.**

No exploratory application for planned residential unit development shall be approved by the Council unless the following findings are made:

(1) \* \* \*

(2) \* \* \*

(3) \* \* \*

(4) That the proposed development will not overburden existing and programmed public facilities as set forth in Article XVI of this Chapter and as provided in the adopted Adequate Public Facilities Standards; and

[(4)] (5) That the proposed development will not be inconsistent with the intent or purpose of this article; and

[(5)] (6) That the proposed development will not overburden existing and programmed [public services, including water, sanitary sewer, public roads] storm drainage and other public improvements; and

[(6)] (7) That the C-1 Zone uses proposed in such development are not available within reasonable proximity of the development and are primarily for the service and convenience of the residents of such development.

\* \* \*

#### **DIVISION 6. RESIDENTIAL TOWNHOUSE DEVELOPMENT**

\* \* \*

##### **Sec. 25-625. Required findings of Council on exploratory application.**

No exploratory application for residential townhouse development filed after November 1, 1997, shall be approved by the Council unless the following findings are made:

- (1) \* \* \*
- (2) \* \* \*
- (3) \* \* \*

(4) That the proposed development will not be inconsistent with the intent or purpose of this division or article; and

(5) That the proposed development will not overburden existing and programmed public [services, including water, sanitary sewer, public roads, storm drainage and other public improvements] facilities as set forth in Article XVI of this Chapter and as provided in the adopted Adequate Public Facilities Standards; and

(6) That the proposed development will not overburden existing and programmed storm drainage and other public improvements; and

[(6)] (7) That the proposed development complies with the developmental standards and requirements set forth in this division; and

[(7)] (8) That the proposed development enhances the transition between dissimilar uses. The use of appropriate buffering and screening techniques, compatible side design and existing conditions on the site, such as changes in topography and the preservation of existing vegetation, shall also be considered in making the development compatible with the surrounding neighborhood.

\* \* \*

## **DIVISION 7. COMPREHENSIVE PLANNED DEVELOPMENT**

\* \* \*

### **Sec. 25-655. Required findings of Council on concept plan application.**

[No] A concept plan application for comprehensive planned development [shall be] must not be approved by the Council unless the following findings are made:

- (1) \* \* \*
- (2) \* \* \*
- (3) \* \* \*
- (4) \* \* \*
- (5) \* \* \*
- (6) \* \* \*



(7) That the proposed development complies with any applicable development staging and [adequate public facilities] any requirements as set forth in Article XVI of this Chapter and as provided in the adopted Adequate Public Facilities Standards.

\* \* \*

## **DIVISION 8. I-3 OPTIONAL METHOD OF DEVELOPMENT**

\* \* \*

### **Sec. 25-670. Required findings of Council on Preliminary Development Plan Application.**

[No] A Preliminary Development Plan Application for development in accordance with the I-3 Optional Method of Development [shall] must not be approved by the Council unless the following findings are made:

(1) \* \* \*

(2) \* \* \*

(3) \* \* \*

(4) That the proposed development will not overburden [public services including water, sanitary sewer, public roads,] existing and programmed storm drainage and other public improvements; and

(5) That the proposed development complies with the development standards and requirements set forth in this division; and

(6) That the development complies with any applicable development staging [and adequate public facilities] requirements and will not overburden existing and programmed public facilities as set forth in Article XVI of this Chapter and as provided in the adopted Adequate Public Facilities Standards; and

\* \* \*

SECTION 5. That Chapter 25 of the Rockville City Code entitled “Zoning and Planning,” Article XIII. entitled “Town Center Planning Area,” Division 2 entitled “Approval Procedures,” Section 25-681 entitled “Use Permit Approval” and Section 25-682 entitled “Optional method of development” be amended to read as follows:

## **ARTICLE XIII. TOWN CENTER PLANNING AREA**

### **DIVISION 2. APPROVAL PROCEDURES**

\* \* \*

#### **Sec. 25-681. Use permit approval.**

(a) All developments in the Town Center Planning Area shall require approval of the use permit application in accordance with division 2 of article V of this chapter, except that the following additional requirements shall apply:

- (1) The Planning Commission shall approve a use permit application only if it finds:
  - a. That the proposed development will be consistent with the Plan;
  - b. That the proposed development will be consistent with the intent and purpose of this article; and
  - c. That the proposed development will not overburden existing [public services including water, sanitary sewer, public roads,] and programmed storm drainage, [school capacity] and other public improvements; and other existing and programmed public facilities as set forth in Article XVI of this Chapter and as provided in the adopted Adequate Public Facilities Standards.

\* \* \*

#### **Sec. 25-682. Optional method of development.**

(a) \* \* \*

(1) \* \* \*

(2) All applicants shall prepare and submit a [traffic] transportation impact study in conformance with the “Comprehensive Transportation Review” (CTR) or its successor and shall provide mitigation of [traffic] transportation impacts [which exceed the standards of the STM] as may be acceptable to the Mayor and Council in accordance with Article XVI of this Chapter and the adopted Adequate Public Facilities Standards;

\* \* \*

SECTION 6. That Chapter 25 of the Rockville City Code entitled “Zoning and Planning,” Article XIV entitled “Rockville Pike Corridor Area” be amended read as follows:

**ARTICLE XIV. ROCKVILLE PIKE CORRIDOR AREA**

\* \* \*

**DIVISION 2. SPECIAL REQUIREMENTS RELATING TO USE AND DEVELOPMENT**

\* \* \*

**Sec. 25-710.27. Optional method of development.**

\* \* \*

(1) \* \* \*

(2) \* \* \*

(3) \* \* \*

(4) Any development that generates more than thirty (30) vehicle trips during any peak hour shall prepare and submit a [traffic] transportation impact study in conformance with the [Standard Traffic Methodology] “Comprehensive Transportation Review” or its successor contained in the Plan or as may be updated from time to time, and shall provide mitigation of [traffic] transportation impacts which exceed the standards of the [“Standard Traffic Methodology”] “Comprehensive Transportation Review”, or its successor as may be acceptable to the Mayor and Council in accordance with Article XVI of this Chapter and the adopted Adequate Public Facilities Standards.

\* \* \*

**DIVISION 3. APPROVAL PROCEDURES**

**Sec. 25-710.31. Use permit approval.**

\* \* \*

(1) Subject to the findings made by the Mayor and Council in connection with the approval of any Preliminary Development Plan, the Planning Commission shall approve a use permit application only if the Commission finds:

a. \* \* \*

b. \* \* \*

c. \* \* \*

- d. That the proposed development will not overburden [existing public services including water, sanitary sewer, public roads, schools] existing and programmed storm drainage, [and] other public improvements, and other existing and programmed public facilities as set forth in Article XVI of this Chapter and as provided in the adopted Adequate Public Facilities Standards.

\* \* \*

SECTION 7. That Chapter 25 of the Rockville City Code entitled “Zoning and Planning,” Article XV. entitled “Subdivision Regulations” be amended as follows:

#### **ARTICLE XV. SUBDIVISION REGULATIONS**

\* \* \*

#### **DIVISION 2. SUBDIVISION APPROVAL PROCEDURE**

\* \* \*

#### **Sec. 25-727. Preliminary plat approval procedure.**

(a) \* \* \*

(b) \* \* \*

(c) \* \* \*

(d) \* \* \*

(e) A preliminary plan shall be approved if the Planning Commission finds that the proposed subdivision will not:

(1) \* \* \*

(2) \* \* \*

(3) Overburden [existing public services including, but not limited to water, sanitary sewer, public roads,] existing and programmed storm drainage and other public improvements;

(4) The development will not overburden existing and programmed public facilities as set forth in Article XVI of this Chapter and as provided in the adopted Adequate Public Facilities Standards;

- [4] (5) Affect adversely the health or safety of persons residing or working in the subdivision or neighborhood;
- [5] (6) Be detrimental to the public welfare or injurious to property or improvements in the neighborhood;
- [6] (7) Be unsuitable for the type of development, the use contemplated, and available public utilities and services; or
- (8) Unreasonably disturb existing topography, in order to minimize stormwater runoff and to conserve the vegetation cover and soil.

\* \* \*

SECTION 8. That Chapter 25 of the Rockville City Code entitled “Zoning and Planning,” be amended by adding a new Article XVI. Entitled “Adequate Public Facilities,” as follows:

## **ARTICLE XVI. ADEQUATE PUBLIC FACILITIES**

### **DIVISION 1. GENERALLY**

#### **Sec. 25-800. Adequate public facilities standards.**

(a) The Mayor and Council shall adopt Adequate Public Facilities Standards establishing the method used by the City to ensure that the necessary public facilities will be available to serve proposed new development or redevelopment. Such standards shall be adopted by resolution following a public hearing, notice of which shall be published at least once in a paper of general circulation. The Mayor and Council will periodically review the Adequate Public Facilities Standards and modify them as deemed necessary. Any development or redevelopment proposed within the City after the effective date of this Article must comply with all requirements of the Adequate Public Facilities Standards, unless a waiver is granted pursuant to said standards. A waiver of the requirement to comply with one or more of the Adequate Public Facilities Standards may be granted only upon a super-majority vote of the approval body. For purposes of this Article, a super-majority vote shall be 3 votes for the Board of Appeals, 5 votes for the Planning Commission, and 4 votes for the Mayor and Council. The Chief of Planning may not grant a waiver.

(b) A finding that public facilities are adequate may include mitigation of impacts that are necessary to comply with the required level of service as set forth in the Adequate Public Facilities Standards.

**Sec. 25-801. Applicability.**

(a) Except as otherwise provided in this Chapter, no development shall be approved without a determination that the public facilities are adequate, as provided herein.

(b) An application for a use permit, detailed application, preliminary plan of subdivision, special exception, any development under a special development procedure or preliminary development plan, or any amendment thereto, must not be approved unless the Mayor and Council, the Planning Commission, the Board of Appeals, or the Chief of Planning, as the case may be, determines that public facilities will be adequate to support and service the area of the proposed development. Public facilities and services to be examined for adequacy will include but not necessarily be limited to roads and public transportation facilities, sewerage and water service, schools, and fire and emergency services protection.

(c) The applicant for a use permit, detailed application, preliminary plan of subdivision, special exception, preliminary development plan, or any development under a special development procedure must, at the request of the Mayor and Council, the Planning Commission, the Board of Appeals, or the Chief of Planning, as the case may be, submit sufficient information and data on the proposed development to demonstrate the expected impact on and use of public facilities and services by possible uses of said development. Utilizing the most recent public facilities assessment, the applicant must demonstrate mitigation measures designed to alleviate any adverse impact on public facilities deemed inadequate in the public facilities assessment as set forth in the Adequate Public Facilities Standards.

(d) Once a special exception, use permit, detailed application, preliminary plan of subdivision, or any development under a special development procedure or preliminary development plan has a valid adequate public facilities determination, an application to implement such development approval is not subject to further adequate public facilities determination, except for water and sewer service, which is confirmed prior to the issuance of a building permit, provided that the adequate public facilities determination and any extension thereof, has not expired.

(e) An application for any development filed, but not approved, prior to September 20, 2005, as that application may be amended prior to approval, but no later than September 20, 2006, and any subsequent application to implement such development approval, is not subject to the Adequate Public Facilities Standards, except for water and sewer service, which is confirmed prior to the issuance of a building permit.

(f) An application to implement a valid special exception, use permit, detailed application, or preliminary plan of subdivision that was approved prior to September 20, 2005 is not subject to the Adequate Public Facilities Standards, except for water and sewer service, which is confirmed prior to the issuance of a building permit.

**Sec. 25-802. Adequate public facilities determination: Validity period; extension; redetermination.**

(a) Validity period.

(1) A determination of adequate public facilities made in connection with the approval of a use permit or special exception for a project that is not subject to a special development procedure or to a preliminary development plan is timely and remains valid so long as the underlying approval remains valid. If at any time a use permit or special exception becomes void due to lack of implementation or otherwise the determination of adequate public facilities shall also become void with respect to that portion of the approved project that has not been timely implemented or has otherwise become void. An extension of time granted for the implementation of a special exception or use permit automatically extends the validity period for the determination of adequate public facilities.

(2) A determination of adequate public facilities made in connection with the approval of a preliminary plan of subdivision (or final plat of subdivision where a preliminary plan is not required) that is not subject to a special development procedure or a preliminary development plan is timely and remains valid for a period as determined by the Planning Commission at the time of subdivision approval. Where a subdivision plat is approved prior to the issuance of a use permit or other development approval by the Planning Commission, Board of Appeals, or Mayor and Council, the Planning Commission may defer the determination of adequate public facilities until consideration of such use permit or other development approval.

(3) A determination of adequate public facilities made in connection with the approval of a development pursuant to a special development procedure (Variable Lot Size Development, Cluster Development, Residential Townhouse Development, Planned Residential Unit Development, I-3 Optional Method of Development) or pursuant to an optional method of development requiring a preliminary development plan shall be timely and remain valid for a period as determined by the Mayor and Council or the Planning Commission, as applicable, at the time of approval of the exploratory application, concept plan, or preliminary development plan, as applicable.

(4) In setting the validity period for a determination of adequate public facilities, the Planning Commission or the Mayor and Council, as applicable, shall consider the size and complexity of the development, the mix of uses and current and future market projections for the proposed uses, and the required public improvements and/or impact mitigations and the schedule for completion of such improvements and mitigations.

(b) Extension.

(1) An extension of time granted for the implementation of a special exception or use permit for a development or project that is not subject to a special development procedure or preliminary development plan automatically extends the validity period for the determination of adequate public facilities.

(2) The Planning Commission may extend the validity period for a determination of adequate public facilities for a preliminary plan of subdivision (or a final plat of subdivision where a preliminary plan is not required) for an exclusively residential subdivision that is not subject to a special development procedure or a preliminary development plan where at least fifty (50) percent of the entire subdivision has received building permits prior to the date of application for extension. The Planning Commission may approve one or more extensions provided that the aggregate length of all extensions for the development does not exceed 30 months for subdivisions with an original period of 5 years or less and does not exceed 6 years for subdivisions with an original validity period of greater than 5 years.

(3) The Planning Commission or the Mayor and Council, as applicable, may extend the validity period for a determination of adequate public facilities for a preliminary plan of subdivision that allows nonresidential development and for any development that is subject to a special development procedure or a preliminary development plan provided that

a. forty percent (40%) of the approved development is either built and/or under construction and/or has received building permits, and

b. all of the infrastructure required by the conditions of the original preliminary plan approval have been constructed or bonded, or the payments for construction have been made or bonded; and

c. the approved development is an “active” project as demonstrated by at least ten percent (10%) of the project having been completed (as evidenced by occupancy permits having been issued or, for developments where occupancy permits are not typically issued, final inspection has been completed and approved) within the last four years before an extension request is made, or at least five percent (5%) of the project having been completed within the last 4 years before an extension request is



made, if 60 percent of the project has been built and/or under construction and/or has received building permits.

The Planning Commission or Mayor and Council, as applicable, may approve one or more extensions provided that the aggregate length of all extensions for the development does not exceed 30 months for projects up to 150,000 square feet, or 6 years for projects 150,000 square feet or greater.

(4) Extension request and review; expiration.

a. A request for extension must be filed with the original approving body before the expiration of the validity period for which the extension is requested.

b. A new development schedule or phasing plan for completion of the project must be submitted to the approving body for approval.

(i) The extension expires if the development is not proceeding in accordance with the phasing plan, unless a revision to the schedule or phasing plan is approved by the approving body.

(ii) A revision to the new development schedule or phasing plan may be approved if documentation is provided to show financing has been secured for either (A) completion of at least one new building in the next stage of the amended development schedule; or (B) completion of infrastructure required to serve the next stage of the amended development schedule.

c. No additional development beyond the amount approved in the determination of adequate public facilities may be proposed or approved.

d. No additional public improvements or other conditions beyond those required for the original project approval may be required.

(5) Extension not automatic. Except for extensions under subsection (b) 1 of this section, the validity period of a finding of adequate public facilities is not automatically extended where the conditions of this section are satisfied, including instances where the applicant has completed all conditions imposed at the time of development approval to meet adequate public facilities requirements.

(6) Reevaluation and redetermination. After the expiration of a determination of adequate public facilities, redetermination of the adequacy of the public facilities to serve the project may be granted by the original approval body based on an analysis of the impact of the net remaining development on the public facilities, consistent with the Adequate Public Facilities Standards. The analysis shall apply credits for infrastructure

that has been provided in conjunction with the development. If the analysis indicates that existing and programmed public facilities will be overburdened, mitigation of said impacts shall be required as a condition of redetermination.

**Sec. 25-803. Applicability to previously approved special development projects.**

(a) Development approved as of the effective date of this article under a special development procedure (CPD, PDP, RTH, PRU, Cluster Development, Variable Lot Size, I-3 Optional Method of Development) or a preliminary development plan (PDP) is deemed to satisfy the Adequate Public Facilities Standards for the following validity periods:

(1) The number of years specified in the original approval, if explicitly stated;  
or

(2) If the original approval does not specify the number of years that public facilities are deemed adequate, the validity period ends twenty-five (25) years from November 1, 2005.

(b) The Mayor and Council may approve one five-year extension to implement the approved development when the applicant demonstrates that development of the project has proceeded with due diligence but that factors beyond the control of the developer, such as economic conditions or change in governmental regulations, have precluded development of the project within the approved time frame or the project is substantially complete, provided that all infrastructure required by the conditions of the approved exploratory application, concept plan, or preliminary development plan have been constructed, bonded, or payments for construction have been made. Internal infrastructure improvements required only to serve the unconstructed portions of the project do not need to be completed.

(c) If the adequate public facility determination expires, the unconstructed portion of the development must satisfy the relevant public facilities standards, with credit for provided facilities, prior to approval of subsequent detailed applications, use permits, or final record plats.

Note: [Brackets] indicate material deleted

Underlining indicates material added

Asterisks \* \* \* indicate material unchanged by this ordinance

\* \* \* \* \*

I hereby certify that the foregoing is a true and correct copy of an

ordinance adopted by the Mayor and Council at its meeting of November 1,  
2005.

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Claire F. Funkhouser, CMC, City Clerk